

REMARKS

The Examiner rejected claims 56-78 and objected to claim 58. Claim 56 has been amended herein to recite that the liquid automatic dishwashing detergent has a pH value of less than about 7.0. Applicants' specification fully supports this amendment. For example, page 6, line 28 discloses "LADDs with a pH less than about 7.0." Thus, no new matter has been added.

In light of this amendment and the following remarks, Applicants respectfully request reconsideration and allowance of claims 56-78.

Objection Under 37 C.F.R. § 1.75(c)

The Examiner objected to claim 58 under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of previous claim 56. Contrary to the Examiner's assertion, however, claim 58 limits the subject matter of claim 56. Claim 58 recites that the LADDs are free of phosphate builders, whereas claim 56 does not contain that limitation. Consequently, claim 58 is in proper dependent form, and Applicants respectfully request withdrawal of this objection.

Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 56-78 under 35 U.S.C. § 103(a) as being unpatentable over Marshall *et al.* (U.S. Patent No. 5,691,292), and further in view of Ospinal *et al.* (U.S. Patent No. 5,965,508). The Examiner stated that "Marshall *et al.* do not specifically teach a liquid automatic dishwashing detergent comprising at least one detergent enzyme and having a pH value of less than 7.0." Despite this deficiency, the Examiner contends that "Marshall *et al.* provide motivation to lower the pH of the detergent composition by teaching that a lower product pH results in a composition which is safer to dishwasher articles (i.e. china, silverware, glass, and the like)."

Applicants respectfully disagree. The combination of cited references does not render the presently claimed invention obvious. In fact, at no point does the Marshall *et al.* reference provide any motivation or suggestion to make a liquid automatic dishwashing detergent having a

pH value of less than about 7.0 as the Examiner contends. The Examiner mistakenly relies on the following excerpt from Marshall *et al.*:

Surprisingly, a low alkaline product pH (between about 7 and about 11) liquid composition which is substantially free of chlorine and silicate exhibits enhanced cleaning, spotting and filming ability. The cleaning benefit is achieved via the presence of enzymes and surfactant and/or builder in the composition. Removal of chlorine bleach and a lower product pH results in a composition which is safer to dishwasher articles (e.g. china, silverware, glass, and the like).

See, column 1, lines 44-52. This excerpt, taken in its proper context, does not motivate a person having ordinary skill in the art to make a liquid automatic dishwashing detergent having a pH value of less than about 7.0. Instead, the “lower product pH” mentioned in Marshall *et al.* refers to the lower pH level of *between* 7 and 11 that results when removing chlorine bleach from the dishwashing composition. It does not provide motivation to lower the pH to *less than* about 7.

The absence of such motivation is also apparent throughout the rest of the disclosure in Marshall *et al.* For example, column 8, lines 9-11 of Marshall *et al.* disclose including buffering agents that are capable of maintaining the pH of the composition “within the desired alkaline range.” In addition, the Marshall *et al.* reference discloses that it “is the low alkaline pH range that optimum performance and stability of the enzyme are realized, and it is also within this pH range wherein optimum compositional chemical and physical stability are achieved.” See, column 8, lines 13-17. Moreover, the Marshall *et al.* reference states the following at column 8, lines 18-23:

Maintenance of the composition pH between about 7 and about 11, preferably between about 8 and about 11.5, minimizes undesirable degradation of the active enzymes. Maintenance of this particular pH range also maximizes the soil and stain removal properties and prevents spotting and filming during utilization of the present compositions.

Thus, a person having ordinary skill in the art reading the Marshall *et al.* reference would not been motivated to make a composition having a pH outside the disclosed low alkaline pH range. In fact, a person having ordinary skill in the art reading the Marshall *et al.* reference would have been motivated to avoid pH values outside the preferred low alkaline pH range.

The Ospinal *et al.* reference fails correct the deficiencies of the Marshall *et al.* reference. For example, at no point does the Ospinal *et al.* reference teach or suggest that a person having ordinary skill in the art should make a liquid automatic dishwashing detergent having a pH value of less than about 7.0. In fact, the Ospinal *et al.* reference does not relate to liquid automatic dishwashing detergents. As the Declaration of James L. Kurtz explained, “[t]he Ospinal *et al.* patent does not relate to liquid automatic dishwashing detergents.” See, paragraph 7 of James L. Kurtz’s Declaration filed on July 24, 2003. For the Examiner’s convenience, a copy of this declaration is attached hereto. Moreover, as the Examiner has explained, the Ospinal *et al.* reference teaches compositions that include softening clays, smectite-type softening clays, and polymeric clays. In contrast, the Marshall *et al.* reference specifically states that liquid automatic dishwashing detergents should not contain clays:

The polycarboxylate polymer thickening agent is preferably utilized with essentially no clay thickening agents since the presence of clay usually results in a less desirable product having phase instability. In other words the polycarboxylate polymer is preferably used instead of clay as a thickening agent in the present compositions.

See, column 5, lines 24-29. Thus, a person having ordinary skill in the art would have appreciated the distinct subject matter of the two cited references and would not have combined the cited references as the Examiner contends.

Even assuming for the sake of argument that the combination of cited references is proper, the combination of cited references fails to suggest that a person having ordinary skill in the art should make a liquid automatic dishwashing detergent having a pH of less than about 7.0. Again, the Marshall *et al.* reference specifically discloses maintaining the pH of a liquid automatic dishwashing detergent within the desired low alkaline pH range; and the Ospinal *et al.* reference fails to mention a single pH value for a liquid automatic dishwashing detergent. Thus, the cited references do not render the presently claimed invention obvious.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 56-78 under 35 U.S.C. § 103(a).

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CONCLUSION

Applicants submit that claims 56-78 are in condition for allowance, which action is requested. The Examiner is invited to call the undersigned agent at the telephone number below if such will advance prosecution of this application. The Commissioner is authorized to charge any fees or credit any overpayments to Deposit Account No. 06-1050.

Respectfully submitted,

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